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| APPLICATION NO.                       | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|---------------------------------------|-------------|----------------------|---------------------|------------------|
| 09/901,466                            | 07/09/2001  | Stephen J. Lippard   | MTV-033.01          | 5664             |
| 25181                                 | 7590        | 10/14/2005           | EXAMINER            |                  |
| FOLEY HOAG, LLP                       |             |                      | CEPERLEY, MARY      |                  |
| PATENT GROUP, WORLD TRADE CENTER WEST |             |                      | ART UNIT            | PAPER NUMBER     |
| 155 SEAPORT BLVD                      |             |                      |                     | 1641             |
| BOSTON, MA 02110                      |             |                      |                     |                  |

DATE MAILED: 10/14/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

|                              |                          |                |
|------------------------------|--------------------------|----------------|
| <b>Office Action Summary</b> | Application No.          | Applicant(s)   |
|                              | 09/901,466               | LIPPARD ET AL. |
|                              | Examiner                 | Art Unit       |
|                              | Mary (Molly) E. Ceperley | 1641           |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) Responsive to communication(s) filed on 01 August 2005.
- 2a) This action is FINAL. 2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) Claim(s) 1-11,20-30,48,50 and 51 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) Claim(s) \_\_\_\_\_ is/are allowed.
- 6) Claim(s) 1-11,20-30,48,50 and 51 is/are rejected.
- 7) Claim(s) \_\_\_\_\_ is/are objected to.
- 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) All b) Some \* c) None of:
  1. Certified copies of the priority documents have been received.
  2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- 1) Notice of References Cited (PTO-892)
- 2) Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_.
- 4) Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.
- 5) Notice of Informal Patent Application (PTO-152)
- 6) Other: \_\_\_\_\_.

**1)** The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

**2)** Although specific claims may be discussed in the rejections below, these rejections are also applicable to all other claims in which the noted problems/language occur.

**3)** Claims 1-11, 20-30, 48, 50 and 51 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

**a)** Claims 1, 20 and 48 still contain "E" defined as "sulfonyl". Claims 1, 3, 8, 10, 20, 22, 27, 29 and 48 still contain "E" defined as "carbonyl". Therefore, the rejection of paragraph **7)(b)** of the March 28, 2005 Office action still applies.

**b)** In claim 2, it is unclear what the term "optionally substituted" refers to. It is noted that "A" is defined in independent claim 1 as "-CH<sub>2</sub>-" which definition does not include any "optional substitution".

**c)** Claim 3, line two, is missing a term ("K") to define "is optionally present and if present".

**d)** Claim 22, line four, is missing a term to define "is optionally present and if present".

**e)** The compounds of claims 50 and 51 are not encompassed by the structures of independent claims 1 and 20 which require that "V" comprise at least three Lewis base moieties.

**f)** Given the fact that "V" in the independent claims must contain, at a minimum, a "heterocycl" and an "imino" group, it is unclear whether or not the claim 5, 6, 24 and 25 definitions of "V" as "amino" are the definitions of the third Lewis base or all "V" definitions are "amino" which would be inconsistent with the requirements of the definition of "V" of the independent claims.

Art Unit: 1641

**4)** Applicants' amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

**5)** Any inquiry concerning this communication or earlier communications from the examiner should be directed to Mary (Molly) E. Ceperley whose telephone number is (571) 272-0813. The examiner can normally be reached from 8 a.m. to 4:30 p.m.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Long V. Le, can be reached on (571) 272-0823. The fax phone number for the organization where this application or proceeding is assigned is (571) 273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Art Unit: 1641

October 12, 2005



Mary (Molly) E. Ceperley  
Primary Examiner  
Art Unit 1641